

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

MEDICIS PHARMACEUTICAL
CORPORATION,

Plaintiff,

-against-

NYCOMED U.S. INC. and NYCOMED
GMBH,

Defendants.

Civil Action No.
10-CV-4140(LAK)

FILED BY ECF

ANSWER TO COUNTERCLAIMS

Medicis Pharmaceutical Corporation (“Medicis”), for its Answer to the Counterclaims of Nycomed U.S. Inc. (“Nycomed”), states as follows:

1. Medicis admits the allegations of Paragraph 1.
2. Medicis admits the allegations of Paragraph 2.
3. Medicis admits that the Court has subject matter jurisdiction over these Counterclaims.
4. Medicis admits that personal jurisdiction exists over Medicis for purposes of these Counterclaims.
5. Medicis admits that venue is proper in this district for purposes of these Counterclaims.
6. Medicis admits the allegations of Paragraph 6.
7. Medicis admits that its Complaint asserts, among other things, that Nycomed’s submission of Abbreviated New Drug Application (“ANDA”) No. 20-735 was an act of infringement of United States Patent Nos. 6,765,001 (“the ‘001 patent”); 7,220,424 (“the ‘424

patent”), and 7,217,422 (“the ‘422 patent”), pursuant to 35 U.S.C. §271(e)(2)(A). Medicis lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 7 and, therefore, denies the same.

8. Medicis admits that there is an actual, substantial, and continuing justiciable case or controversy concerning Nycomed’s infringement of the ‘001, ‘424, and ‘422 patents, but denies that there is any merit to Nycomed’s Counterclaims. Medicis denies any remaining allegations of Paragraph 8.

9. Medicis repeats and realleges each of its responses to Paragraphs 1-8 above as if each were separately set forth in response to the allegations contained in Paragraph 9.

10. Medicis denies the allegations of Paragraph 10.

11. Medicis denies the allegations of Paragraph 11.

12. Medicis repeats and realleges each of its responses to Paragraphs 1-11 above as if each were separately set forth in response to the allegations contained in Paragraph 12.

13. Medicis denies the allegations of Paragraph 13.

Affirmative Defenses

14. Nycomed has failed to state a claim upon which relief may be granted.

WHEREFORE, Medicis respectfully requests that the Court enter judgment:

- A. Dismissing Nycomed’s Counterclaims for declaratory judgment;
- B. Awarding Medicis the relief sought in its Complaint; and
- C. Awarding such other and further relief as the Court may deem just and proper.

Dated: January 14, 2011

s/James Baker

Andrew M. Berdon
andrewberdon@quinnemanuel.com
Robert B. Wilson
robertwilson@quinnemanuel.com
James E. Baker
jamesbaker@quinnemanuel.com
QUINN EMANUEL URQUHART
& SULLIVAN, LLP
51 Madison Avenue, 22nd Floor
New York, New York 10010
(212) 849-7000 (tel.)

*Attorneys for Plaintiff Medicis
Pharmaceutical Corporation*

CERTIFICATE OF SERVICE

I am not a party to the above case, and am over eighteen years old.

On January 14, 2011, I served a true and correct copy of Medicis' Reply by ECF on:

David B. Bassett
david.bassett@wilmerhale.com
Wilmer, Cutler, Hale & Dorr, LLP
399 Park Avenue
New York, NY 10022
(212) 230-8858 (tel.)

Executed on January 14, 2011, at New York, New York.

I affirm under penalty of perjury that the foregoing is true and correct.

s/James Baker

Signature

James E. Baker

Print Name